

Before the  
**Communications Commission**  
Washington, DC

In the Matter of:

# Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard

GN Docket No. 16-142

## Comments of

**Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)**

## National Association of the Deaf (NAD)

## Hearing Loss Association of America (HLAA)

## Association of Late-Deafened Adults (ALDA)

## Cerebral Palsy and Deaf Organization (CPADO)

## California Coalition of Agencies Serving the

## Deaf and Hard of Hearing (CCASDHH)

**National Association of State Agencies of the**

## Deaf and Hard of Hearing (NASADHH)

## Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)

**Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing, Gallaudet University (DHH-RERC)**

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May 9, 2017

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the National Association of the Deaf (NAD), the Hearing Loss Association of America (HLAA), the Association of Late-Deafened Adults (ALDA), the Cerebral Palsy and Deaf Organization (CPADO), the California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), the National Association of State Agencies of the Deaf and Hard of Hearing (NASADHH), and the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), collectively, “Consumer Groups,” and the Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing, Gallaudet University (DHH-RERC), respectfully comment on the Commission’s Feb. 23, 2017 *Notice of Proposed Rulemaking* in the above-referenced docket ( “*NPRM*”).<sup>1</sup>

In general, we are supportive of the *NPRM*’s proposals to allow broadcasters to begin the transition from ATSC 1.0 to 3.0.<sup>2</sup> We agree with the *NPRM*’s conclusions that ATSC 3.0 technology will allow broadcasters to roll-out features that will benefit consumers, including the millions of Americans who are deaf or hard of hearing.<sup>3</sup>

We note that our support is conditioned on the Commission’s proposal to continue applying the Part 79 closed captioning rules to stations that undertake the ATSC 3.0 transition, which we strongly support.<sup>4</sup> The captioning rules, which serve as “curb cuts” to the social, cultural, democratic, and economic benefits of broadcast television, have ensured equal access over the past quarter-century following the enactment of the Television Decoder Circuitry Act and the video accessibility provisions of the Telecommunications Act

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<sup>1</sup> *Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard*, Notice of Proposed Rulemaking, GN Docket No. 16-142, 32 FCC Rcd. 1670 (Feb. 24, 2017) (“*NPRM*”), [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-13A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-13A1_Rcd.pdf). Because the issues in these comments pertain to the quality of closed captions, we are also filing it in CG Docket No. 05-231.

<sup>2</sup> *Id.* at 1671, ¶ 1.

<sup>3</sup> *See id.*

<sup>4</sup> *See id.* at 1699, ¶ 68 & n.151.

of 1996.<sup>5</sup> The rules rest on an encyclopedic record of support and a long-standing spirit of collaboration between broadcasters and consumers who are deaf or hard of hearing to ensure that broadcast television is accessible. As the Commission notes, the petition underlying the *NPRM* supports the technology-neutral nature of broadcasters' public interest obligations.<sup>6</sup> We see no reason to depart from this approach in the context of closed captions and urge the Commission to adopt the *NPRM*'s proposal.<sup>7</sup>

While our conversations with representatives of the National Association of Broadcasters and examination of the relevant technical standards leads us to believe that the transition can occur without disruption to closed captions, we urge the Commission to clarify or emphasize the following points:

- **Broadcaster Compliance with the Captioning Rules on ATSC 1.0 and 3.0**

**Simulcasts.** The *NPRM* contemplates that the use of ATSC 3.0 will be voluntary and that broadcasters undertaking ATSC 3.0 transmissions will be required to simulcast ATSC 1.0 and 3.0 transmissions.<sup>8</sup> We urge the Commission to clarify that broadcasters who undertake ATSC 3.0 transmissions must continue to comply with the captioning rules on their ATSC 1.0 transmissions *and* ensure that their ATSC 3.0 transmissions also comply with the rules. To the extent the ATSC 3.0 transition requires broadcasters to purchase new caption encoding equipment, it is essential that they do so while maintaining their existing ATSC 1.0 captioning workflows, planning accordingly for captioning costs associated with both activities. **The Commission should make clear that it will presumptively deny waivers of the**

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<sup>5</sup> See generally 47 U.S.C. § 613.

<sup>6</sup> See *NPRM*, 32 FCC Rcd. at 1699-1700, ¶ 68.

<sup>7</sup> See *id.*

<sup>8</sup> *Id.* at 1671, ¶ 2.

**captioning rules related to costs or technical difficulties associated with new ATSC 3.0 equipment or maintaining ATSC 1.0 equipment.**

- **MVPD Passthrough of Broadcast Content.** Rule 79.1(c) spells out the requirements for video programming distributors, including multichannel video programming distributors (MVPDs), to pass through and maintain the quality of captions. The *NPRM* suggests that MVPDs will have flexibility in deciding whether to pass through ATSC 3.0 streams in addition to ATSC 1.0 streams.<sup>9</sup> We do not object to this proposal, but **urge the Commission to make clear that MVPDs must comply with Rule 79.1(c)’s provisions for *all* streams that they pass through—whether ATSC 1.0 alone or both 1.0 and 3.0—so that consumers are able to view captions of broadcast channels on MVPD equipment regardless of the underlying technical standard(s) being used to broadcast.**
- **Image Overlays in Captions.** We note that the ATSC 3.0’s standard for captions contemplates the use of image overlays in addition to text in captions.<sup>10</sup> **We urge the Commission to clarify that this capability does not absolve broadcasters of their fundamental obligation to transmit closed captions in textual format and clarify that image overlays should be used only for non-essential special effects and/or for specialized formatting of rasterized textual content, such as subtitles or open captions.** Even where image overlays or rasterized textual content are used, viewers must always have the choice to access textual closed captions, instead or in addition, to facilitate the customizations required under Subpart B of Part 79 of the Commission’s rules, which are critical to ensure equal

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<sup>9</sup> *Id.* at 1672, ¶ 2.

<sup>10</sup> *ATSC Standard: Captions and Subtitles (A/343)* at 4 (December 21, 2016), <http://atsc.org/wp-content/uploads/2016/12/A343-2016-Captions-and-Subtitles.pdf>.

access for viewers who are deafblind or otherwise visually impaired.<sup>11</sup> Indeed, the ATSC 3.0 standard explicitly supports compliance with the FCC’s existing rules in that regard.<sup>12</sup> We also urge the Commission to encourage the development of best practices for using image overlays and other new captioning technologies facilitated by the ATSC 3.0 transition, and to refer discussion of such those issues to the Commission’s Disability Advisory Committee (DAC).

- **Requiring Fees for ATSC 3.0-Based Features.** The *NPRM* contemplates that broadcasters might charge consumers an additional fee for certain ATSC 3.0-based features, such as 4K resolution.<sup>13</sup> Although no accessibility-related fees appear to be contemplated, **we urge the Commission to clarify that any features with accessibility dimensions, including those necessary to comply with the closed captioning rules, must be provided to consumers without additional cost or request.**

We thank the Commission and broadcasters for their attention to the accessibility dimensions of this important initiative and stand ready to collaborate as the transition gets underway.

Respectfully submitted,

/s/

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<sup>11</sup> See 47 C.F.R. §§ 79.101-79.104.

<sup>12</sup> See *id.* (the standard “[s]upports FCC requirements for both [CEA-708] and [Internet Protocol] captions” (citing 47 C.F.R. part 79)).

<sup>13</sup> *NPRM*, 32 FCC Rcd. at 1700-01, ¶ 70.

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